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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/506,780

06/13/2005

Roar Bendtsen Schou

120992

3546

25944 7590 09/15/2009

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EXAMINER

DEMERE, CHRISTOPHER R

ART UNIT

PAPER NUMBER

3782

MAIL DATE

DELIVERY MODE

09/15/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/506,780	<b>Applicant(s)</b> SCHOU, ROAR BENDTSEN	
	<b>Examiner</b> CHRISTOPHER DEMEREE	<b>Art Unit</b> 3782	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 26 August 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/26/2009 has been entered.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schou (WO 01/15977 A2) in view of Shanton (US 5776619 A).

Regarding claims 1, 4, 7 and 8, Schou teaches a block carton, comprising: a first surface and a second surface; a preferably rectangular bottom panel (3) with four- sides and having a front and an opposed rear side panel (2 and 6) and two opposed end side panels (4 and 5), wherein each of the side panels has a length like the corresponding side of the bottom panel, wherein a side panel or end side panel is connected to a side on a lid panel (7), wherein the lid panel is preferably provided with one or more lid flaps along the remaining sides of the lid, and wherein the side panels preferably comprise

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corner segments (14) arranged in correspondence with the corners of the bottom panel; wherein the first surface comprises a first coating being essentially impermeable to water vapor; and wherein the second surface comprises a second coating having a large number of comparatively small pinhole openings (Page 2 lines 19-29); characterized in that at least one of the surfaces is coated with a finish in a water-insoluble form (paraffin coating; Page 5 lines 20-25).

Schou lacks a coating of water-based varnish on the outside. Shanton teaches plate stock comprising a water-based varnish coating (Col 6 lines 34-45). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Schou's block carton to include a varnish coating in order to provide the carton's exterior with improved printing quality (Shanton; Col 3 lines 3-5). The improved printing quality provided by having a varnish coating on the exterior of the carton would aid in providing Schou's liner with indicators (i.e. instructions) for the operators on how to properly assemble the carton (Schou; Page 13 lines 11-14).

Examiner notes that the pin-hole openings exist to control the vapor transmission in the freezing process of the contents of the container (Page 2 lines 20-25). Examiner considers this to meet the limitation that the first and second coatings are in "communication with each other" since said pin-holes essentially move the moisture from the contents (i.e. raw fish) to the wall of the container; said wall comprising both the first and second coatings.

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Regarding claim 2, Schou, as modified above, teaches a cover for a block carton wherein the first coating is in the form of a finish in a water-insoluble form (Shanton; 16); and wherein the second coating is a paraffin coating (Schou; Page 2 lines 23-25).

Regarding claims 3 and 6, Schou, as modified above, teaches a cover for a block carton wherein a finish-coated side is provided with a visual indication (Page 5 lines 11-13).

Regarding claims 5 and 9-25, Schou, as modified above, discloses the claimed invention except for teaching that the openings in the second coating constitute 5 percent or less than the total surface of the second coating or have a diameter of 1 mm or less. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the pinhole openings in the second coating constitute 5 percent or less than the total surface of the second coating, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. In re Boesch, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

Regarding claims 26 and 27, Schou, as modified above, discloses the claimed invention except for teaching that the first coating has a permeability of water of less than  $10\text{g/m}^2$  at 23 degrees Celsius and a relative humidity of 50% by application of  $8\text{g/m}^2$ . It would have been obvious to one having ordinary skill in the art at the time the invention was made to make a cover first coating of said, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. In re Boesch, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

***Response to Arguments***

4. Applicant's arguments filed 6/26/2009 have been fully considered but they are not persuasive. Applicant argues that there is no motivation to modify Schou to include a second, exterior coating of water-based varnish. Examiner notes that Schou teaches a need to provide indicators, or instructions, on the liner in order to affect proper assembly of the block carton (Page 13 lines 5-15). Shanton teaches paperboard plate stock provided with water based varnish coating, which allows for improved printing quality on the surface of the plate. It would have been obvious to provide this high print quality varnish coating on Schou's liner that requires printed instructions.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTOPHER DEMEREE whose telephone number is (571)270-1982. The examiner can normally be reached on Mon-Fri, 8:00 AM-5:00PM, Alt Fri, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on (571) 272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christopher Demeree/  
Examiner, Art Unit 3782

/Nathan J. Newhouse/  
Supervisory Patent Examiner, Art Unit 3782